

for the sole purpose of establishing background for the present claims (those made regarding the August 25, 2005 promotion and thereafter).

3. Upon further review of the Complaint in the context of preparing for depositions, it seems unclear whether Plaintiff makes allegations to establish separate claims as to his employment for a time period prior to August 25, 2005. At this stage in the litigation, Defendants are simply unable to ascertain if Plaintiff is attempting to assert separate claims for employment actions occurring prior to August 25, 2005 or referring to the information as background for posturing alleged discriminatory employment practices after August 25, 2005.

4. Prior to the present lawsuit, Plaintiff filed other cases against at least some of the same Defendants. Those cases have been dismissed and releases obtained by the Defendants. The most recent employment matter resolved resulting in a settlement agreement executed by Plaintiff on or about January 20, 2004 and a dismissal of that lawsuit on or about March 10, 2004.

5. To the extent Plaintiff is seeking to assert claims prior to August 25, 2005, Defendants request the Court grant this Motion for Leave to Amend and allow them to add as defenses: (1) release, and (2) res judicata/collateral estoppel and/or issue preclusion.

6. Although this Motion for Leave to Amend is filed after the deadline for amending pleadings established by the Court, Defendants submit that they have acted in good faith reviewing this matter and that there will be no prejudice to Plaintiff in that no depositions have been taken, Defendants disclosed the prior release in their Initial Disclosures, and Plaintiff has been aware at all times of the dispositions of the

earlier suits involving him.

7. The undersigned has also discussed this matter with attorney for Plaintiff who advised he has no objection to this Motion for Leave to Amend.

Wherefore Premises Considered, Defendants respectfully request this Court to grant their Motion for Leave to Amend.

/s/ *Randall Morgan*
RANDALL MORGAN [MORG8350]
Attorney for Defendants

OF COUNSEL:
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CERTIFICATE OF SERVICE

I hereby certify that on this the 25th day of February, 2008, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to the following via email:

Jeffrey W. Bennitt
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/s/ *Randall Morgan*
OF COUNSEL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

CHRIS E. TURNER,

Plaintiff,

V.

CASE NO: 3:07-cv-162-MEF

CITY OF AUBURN, a municipality of The State of Alabama; LARRY LANGLEY, an individual; LEE LAMAR, an individual; BILL HAM, JR., an individual; STEVEN A. REEVES, an individual; BILL JAMES, an individual; DAVID WATKINS, an individual; CHARLES M. DUGGAN, an individual; and CORTEZ LAWRENCE, an individual;

Defendants.

DEFENDANTS' FIRST AMENDED ANSWER

COME NOW the Defendants and herewith amend their Answer by adding the following defenses:

1. These Defendants plead release.
2. These Defendants plead res judicata/collateral estoppel.

/s/ Randall Morgan

RANDALL MORGAN [MORG8350]
Attorney for Defendants

OF COUNSEL:

**HILL, HILL, CARTER, FRANCO,
COLE & BLACK, P.C.**

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